Headquarters U.S. Air Force

Integrity - Service - Excellence

Ozone & PM Standards; and effects on Texas facilities

Staff Judge Advocate
HQ AFCEE/JA
31 Jul 02

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New Ozone & PM Standards

- EPA proposes new Ozone and Particulate Matter Standards in July 1997
- EPA promptly gets sued and the standards are reviewed at the Supreme Court
  - EPA is authorized to implement the $PM_{2.5}$ standards immediately, begins monitoring to ascertain non-attainment areas
  - Progress on Ozone standards is halted pending the outcome of the court cases

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New Ozone & PM Standards (Cont'd)

- **Supreme Court Upholds the standards but invalidates EPA's implementation plan as potentially incompatible with 1990 CAA Amendments**
- **Remands to DC Circuit Court of Appeals which then upholds the EPA proposed standards and orders EPA to deal with the implementation issue**
- **EPA sets out proposed response to remand on 14 Nov 2001 (66 FR 57267-57292)**

Impacts of Court Ruling on Implementation of Standards

- **Supreme Court rules that EPA must reconcile proposed standards with existing statutory mandate for O_3 deadlines for attainment (Subpart 2)**
  - **Established standards are set forth in the Ozone Attainment provisions of the CAA**
    - **42 USC §§ 7511-7511f [CAA §§ 181-185B]**
    - **Provisions are statutory, not regulatory**
  - **Statute looks like this:**

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CAA Layout

TITLE I –
AIR POLLUTION PREVENTION AND CONTROL
Part D – Plan Requirements for Nonattainment Areas

SUBPART 1 - **Nonattainment Areas in General**

Sec. 171. Definitions.
Sec. 172. Nonattainment plan provisions.
Sec. 173. Permit requirements.
Sec. 174. Planning procedures.
Sec. 175. Environmental protection agency grants.
Sec. 175A. Maintenance Plans.
Sec. 176. Limitation on certain federal assistance.
Sec. 176A. Interstate Transport Commissions.
Sec. 177. New motor vehicle emission standards in nonattainment areas.
Sec. 178. Guidance documents.
Sec. 179. Sanctions and consequences of failure to attain
Sec. 179B. International border areas

SUBPART 2 - **Additional Provisions for Ozone Nonattainment Areas**

Sec. 181. Classifications and attainment dates. ← **contains a "Table 1"**
Sec. 182. Plan submissions and requirements.
Sec. 183. Federal ozone measures.
Sec. 184. Control of interstate ozone air pollution.
Sec. 185. Enforcement for Severe and Extreme ozone nonattainment areas for failure to attain.
Sec. 185A. Transitional areas.
Sec. 185B. NOx and VOC study.

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Subpart 2 Deadlines

CLASSIFICATION OF AREAS
CAA...SECTION 181(a)
OZONE

CLASS	LEVEL (ppm)	ATTAIN. DATE
MARGINAL	.121 up to .138	3 years
MODERATE	.138 up to .160	6 years
SERIOUS	.160 up to .180	9 years
SEVERE1	.180 up to .190	15 years
SEVERE2	.190 up to .280	17 years
EXTREME	.280 and above	20 years

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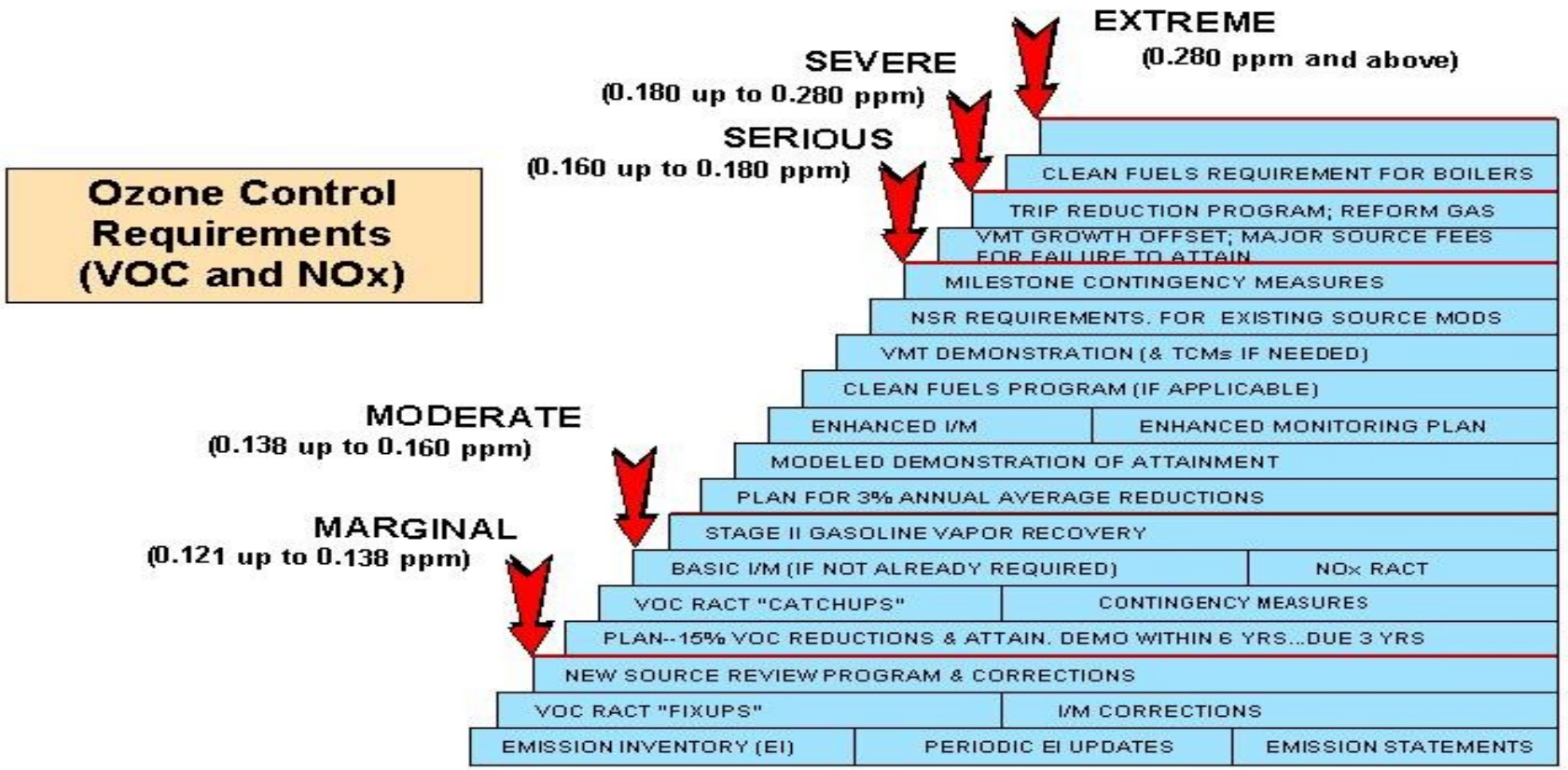
Mandated Controls (CAA § 182)

Overview of the CAA 1-hr Mandates by Classification ...


Ozone Control Requirements (VOC and NOx)
EXTREME
(0.280 ppm and above)
SEVERE
(0.180 up to 0.280 ppm)
SERIOUS
(0.160 up to 0.180 ppm)
MODERATE
(0.138 up to 0.160 ppm)
MARGINAL
(0.121 up to 0.138 ppm)
CLEAN FUELS REQUIREMENT FOR BOILERS
TRIP REDUCTION PROGRAM; REFORM GAS
VMT GROWTH OFFSET; MAJOR SOURCE FEES FOR FAILURE TO ATTAIN
MILESTONE CONTINGENCY MEASURES
NSR REQUIREMENTS. FOR EXISTING SOURCE MODS
VMT DEMONSTRATION (& TCMs IF NEEDED)
CLEAN FUELS PROGRAM (IF APPLICABLE)
ENHANCED I/M
ENHANCED MONITORING PLAN
MODELED DEMONSTRATION OF ATTAINMENT
PLAN FOR 3% ANNUAL AVERAGE REDUCTIONS
STAGE II GASOLINE VAPOR RECOVERY
BASIC I/M (IF NOT ALREADY REQUIRED)
NOx RACT
VOC RACT "CATCHUPS"
CONTINGENCY MEASURES
PLAN--15% VOC REDUCTIONS & ATTAIN. DEMO WITHIN 6 YRS...DUE 3 YRS
NEW SOURCE REVIEW PROGRAM & CORRECTIONS
VOC RACT "FIXUPS"
I/M CORRECTIONS
EMISSION INVENTORY (EI)
PERIODIC EI UPDATES
EMISSION STATEMENTS

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Deadline and Design Value Comparison

TABLE 1/SUBPART 2 1-HR O3 CLASSIFICATION TABLE

TRANSLATION TO 8-HR DESIGN VALUES

Area class		cutpoints 1-hr O3 ppm	% above 1-hr O3 NAAQS	Translated 8-hr cutpoints ppm	Primary standard attainment date**
Marginal	from	0.121	0.833	0.081	3 years after enactment
Marginal	up to	0.138	15.000	0.092	
Moderate	from	0.138	15.000	0.092	6 years after enactment
Moderate	up to	0.160	33.333	0.107	
Serious	from	0.160	33.333	0.107	9 years after enactment
Serious	up to	0.180	50.000	0.120	
Severe -15	from	0.180	50.000	0.120	15 years after enactment
Severe -15	up to	0.190	58.333	0.127	
Severe -17	from	0.190	58.333	0.127	17 years after enactment
Severe -17	up to	0.280	133.333	0.187	
Extreme	equal to or above	0.280	133.333	0.187	20 years after enactment

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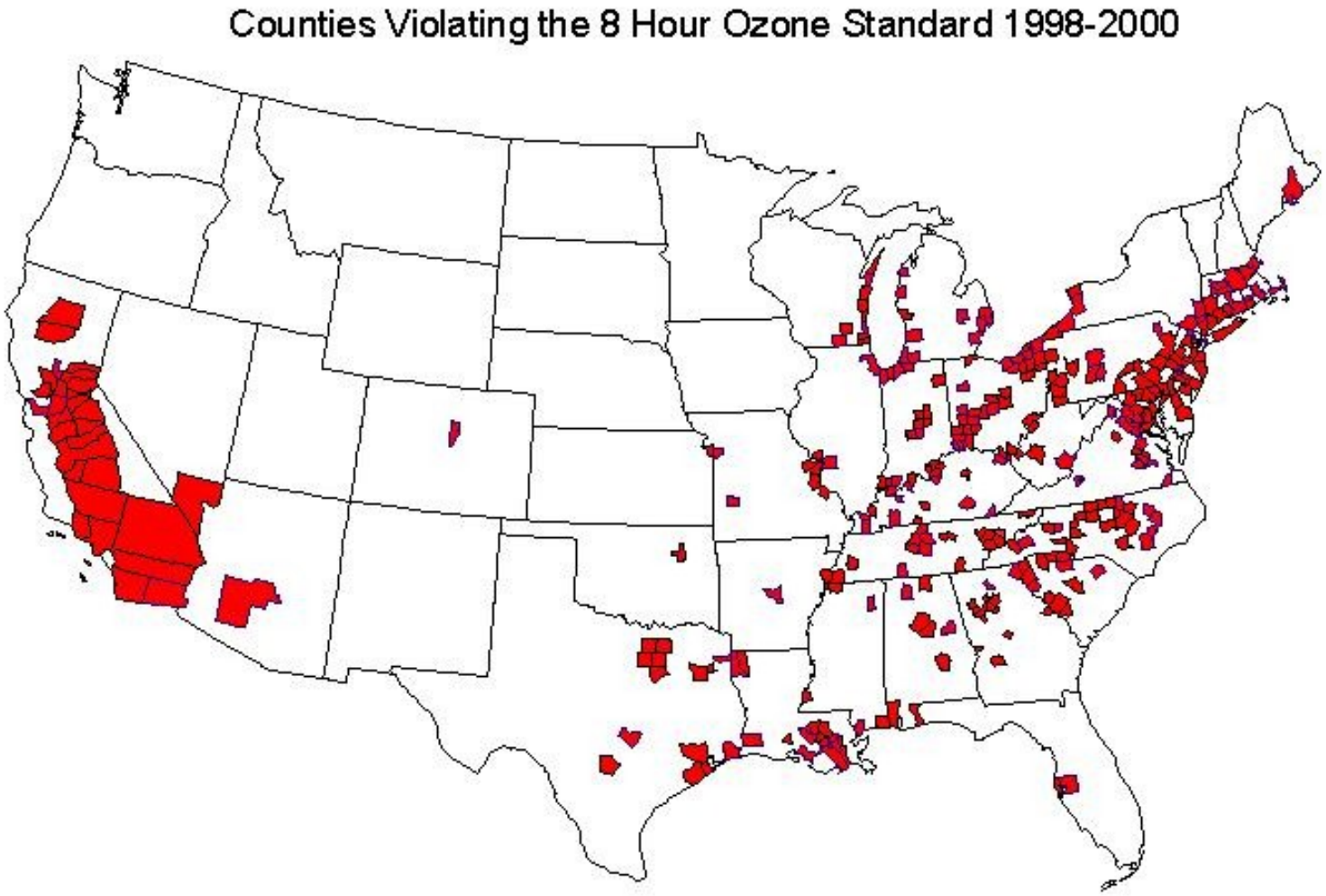
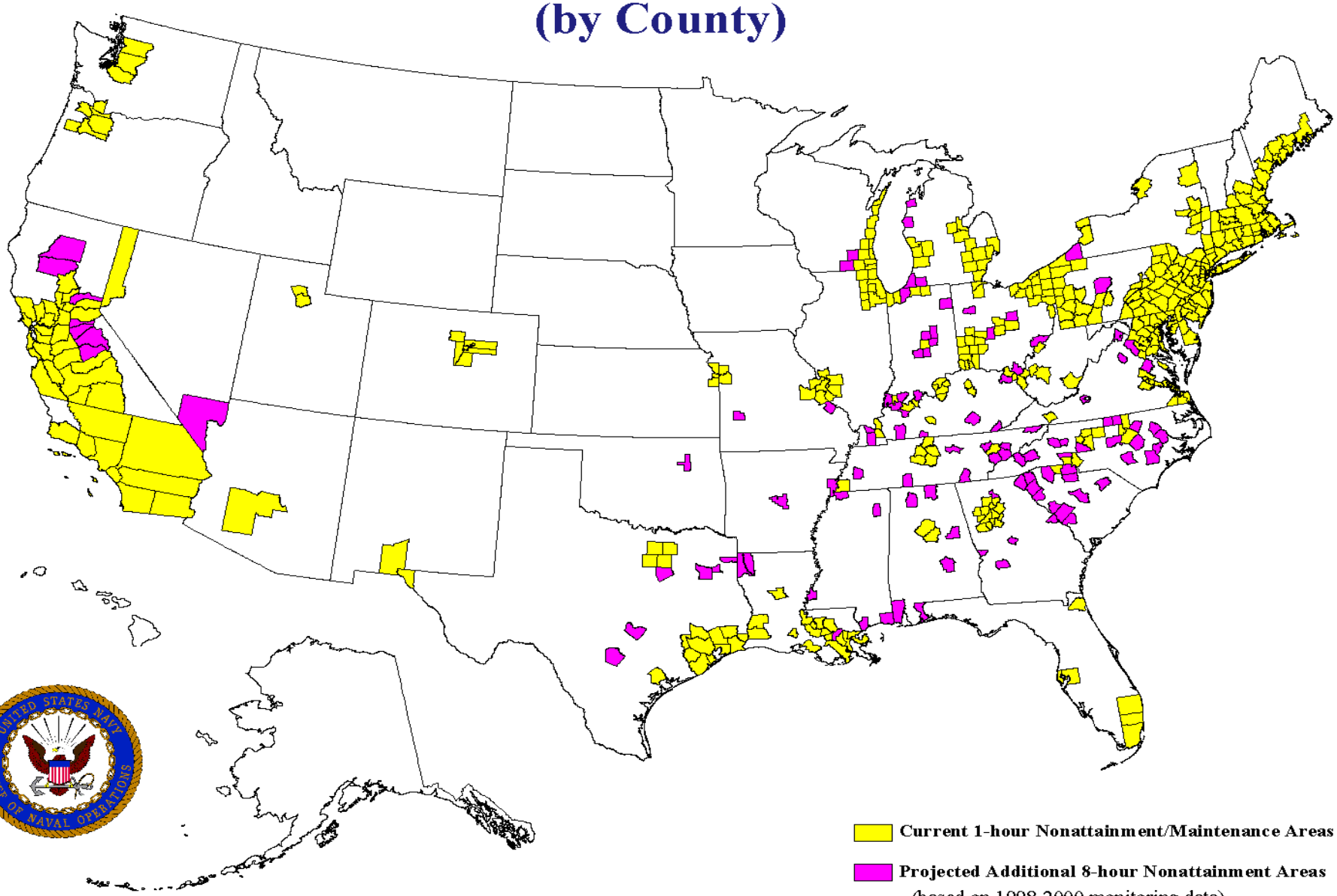
What is EPA doing now?

- Having hearings on implementation strategies
  - Three have been held across the country
    - Washington, DC (5 Mar 2002)
    - Atlanta, GA (7 Mar 2002)
    - Tempe, AZ (3 Apr 2002)
  - EPA has established a proposed schedule for implementation of the new Ozone Rule
    - Proposed Rule set to be published July 2002
    - Finalized in 2003
    - Attainment Designations set to be made in 2004
    - SIPs due to EPA 2007-2008
    - Attainment scheduled to occur from 2007-2019

Projected N/A Areas



Current 1-Hour and Projected 8-Hour Ozone Nonattainment/Maintenance Areas
(by County)


Current 1-hour Nonattainment/Maintenance Areas
Projected Additional 8-hour Nonattainment Areas
(based on 1998-2000 monitoring data)

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Other Implementation Issues

- $PM_{2.5}$ Monitoring Continues and EPA will have to integrate $PM_{2.5}$ and O_3 8 hour standard implementation with new rule makings
- Major Facilities Affected:
  - Lackland AFB, Brooks AFB, Randolph AFB & Nellis AFB go into N/A from attainment

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Things to Worry About for Affected Facilities

- **Conformity and SIP Budgets**
  - **Make sure you get your own budget figures and be able to account for growth**
- **More Title V permits or Synthetic Minors**
  - **Title V Major Source status more likely with non-attainment determinations**
  - **Title V permit must be applied for within one year of becoming a Title V source**
- **Houston & Galveston SIP; DFW; to come to Austin and San Antonio**

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Resources

- **EPA Web Sites**

Ozone 8-hour Implementation Approach

Ozone Technical Resources

- **DENIX Web Sites**

CAA Services Steering Committee Home Page

- **AFCEE Web Sites**

Environmental Quality-Air Quality

JA Federal Links

Fines & Benefit of Economic Non-Compliance

- EPA fines Ft Wainwright for failure to build bag houses
  - EPA files complaint against Army and they proceed to Administrative Hearing concerning application of EPA's CAA Civil Penalty Policy
    - EPA seeks $27M penalty that includes $12.8M for economic benefit of non-compliance
    - Penalty reduced to $16M
- ALJ issues decision on 30 April 02 that Federal Facilities can be assessed fines which include economic gain and "size of business" components
- Sacramento & Jacksonville Loser
- AF Policy on payment of Fines to States?

Questions?